

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, TYLER MAGILL, APRIL
MUNIZ, HANNAH PEARCE, MARCUS
MARTIN, NATALIE ROMERO, CHELSEA
ALVARADO, and JOHN DOE,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
ALEX FIELDS, JR., VANGUARD
AMERICA, ANDREW ANGLIN,
MOONBASE HOLDINGS, LLC, ROBERT
“AZZMADOR” RAY, NATHAN DAMIGO,
ELLIOT KLINE a/k/a/ ELI MOSLEY,
IDENTITY EVROPA, MATTHEW
HEIMBACH, MATTHEW PARROTT a/k/a
DAVID MATTHEW PARROTT,
TRADITIONALIST WORKER PARTY,
MICHAEL HILL, MICHAEL TUBBS,
LEAGUE OF THE SOUTH, JEFF SCHOEP,
NATIONAL SOCIALIST MOVEMENT,
NATIONALIST FRONT, AUGUSTUS SOL
INVICTUS, FRATERNAL ORDER OF THE
ALT-KNIGHTS, MICHAEL “ENOCH”
PEINOVICH, LOYAL WHITE KNIGHTS OF
THE KU KLUX KLAN, and EAST COAST
KNIGHTS OF THE KU KLUX KLAN a/k/a
EAST COAST KNIGHTS OF THE TRUE
INVISIBLE EMPIRE,

Defendants.

Civil Action No. 3:17-cv-00072-NKM

JURY TRIAL DEMANDED

**PLAINTIFFS’ MOTION TO STRIKE DEFENDANT LOYAL WHITE KNIGHTS OF
THE KU KLUX KLAN’S RESPONSE TO THE COURT’S JANUARY 3, 2018 ORDER
AND FOR AN ENTRY OF DEFAULT**

Plaintiffs respectfully submit this motion to strike Defendant Loyal White Knights of the Ku Klux Klan's response to the Court's January 3, 2018 order and for an entry of default.

PRELIMINARY STATEMENT

On January 3, 2018, after Defendant Loyal White Knights of the Ku Klux Klan ("LWK") purported to file a response to Plaintiffs' Complaint *pro se*, this Court ordered that LWK must appear in this action through licensed counsel within fourteen days or risk being in default (the "Order"). ECF No. 166. In violation of the Order, LWK, once again proceeding *pro se*, submitted a letter to the Court, asking that the case against it be dismissed and informing the Court that it would obtain counsel on a timeline of its own invention. ECF No. 228. LWK has not otherwise filed any response to Plaintiffs' First Amended Complaint (the "FAC"). Accordingly, and for the reasons set forth below, the Court should strike LWK's improper response to the Court's Order and enter an order of default.

FACTS

Plaintiffs filed their Complaint on October 12, 2017. ECF No. 1. Defendant LWK was personally served on October 24, 2017. ECF No. 56. Its deadline to respond to the Complaint was November 14, 2017. *Id.* Two weeks after its deadline to respond, Amanda Barker, the self-described "Imperial Kommander" of the LWK, signed a "Response to Summons" on behalf of herself, her husband Chris Barker, and the LWK. ECF No. 146. That "response" contained a general denial of Plaintiffs' allegations. *Id.* Plaintiffs moved to strike the LWK's purported "response" on December 15, 2017 (the "First Motion to Strike"), on the ground that LWK cannot appear *pro se*. ECF No. 155. On January 3, 2018, the Court granted Plaintiffs' First Motion to Strike in part, and directed LWK to "retain a licensed attorney and have that attorney note an appearance in this matter and file a proper responsive pleading within fourteen (14) days of entry

of this Order.” ECF No. 166 at 2. The Court further noted that “[f]ailure to comply with this Order will result in the ‘Response to Summons’ being stricken and default being entered against LWK.” *Id.*

On January 5, 2018, Plaintiffs filed the FAC, ECF No. 175, and LWK’s deadline to respond to the FAC was February 22, 2018, ECF No. 239. Rather than abiding by the Court’s Order and retaining counsel, Amanda Barker, again purporting to represent the LWK, wrote a letter to the Court (the “Response”) informing it that LWK will retain counsel only if “this action proceeds to trial.”¹ ECF No. 228. The Response further requested that the Court dismiss the action. *Id.* LWK has not filed any responsive pleading signed by an attorney.

ARGUMENT

This Court already held that as a non-attorney, Barker cannot represent the LWK in this case. ECF No. 166. As acknowledged by the Court in issuing the Order, the law is clear that “corporations, partnerships, or associations” may not “appear in federal court other[] than through a licensed attorney.” *Rowland v. Cal. Men’s Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 202 (1993); Va. R. S. Ct., pt. 6 § 1 UPR 1–101, UPC 1–3 (stating that a “corporation can be represented only by a lawyer before a tribunal, with respect to matters involving legal conclusions, examination of witnesses or preparation of briefs or pleadings”).

Accordingly, for the same reasons set out in Plaintiffs’ First Motion to Strike, ECF No. 155, the appropriate remedy is for the Court to strike the LWK’s second improper *pro se* response. *See Office Parks of Lynchburg, LLC v. Wells Fargo Bank, N.A.*, Case No. 6:12-cv-00034, 2012 WL

¹ Although the letter from Barker was dated January 16, 2018, it was not entered on the docket until February 15, 2018.

4325567 (W.D. Va. Sept. 20, 2012) (Moon, J.) (striking organizational plaintiff's complaint because it lacked standing to proceed *pro se*); *see also Allied Colloids, Inc. v. Jadair, Inc.*, 139 F.3d 887 (4th Cir. 1998) (affirming finding of default judgment following district court's order that "unless [the organizational defendant] files a proper response" through duly authorized counsel, "it will be found in default"). Moreover, in light of LWK's failure to comply with the Court's Order, and failure to timely file a response to the FAC, the Court should enter default against LWK. *See* ECF No. 166.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court strike LWK's Response, ECF. No. 228, and enter default against LWK.

Dated: February 28, 2018

Respectfully submitted,

s/ Robert T. Cahill

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CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2018, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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Pro Se

I further hereby certify that on February 28, 2018, I also served the following non-ECF participants, via U.S. mail, First Class and postage prepaid, addressed as follows:

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a/k/a Loyal White Knights Church of
the Invisible Empire, Inc.
c/o Chris and Amanda Barker
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-and-
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